REMARKS

As a result of the foregoing amendment, claims to the embodiment of claim 7 have been deleted without prejudice. In addition, a typographical error in claim 14 has been corrected.

Reconsideration and withdrawal of the remaining claims which are Claims 4-6, 14, 17 and 18 are requested. The Examiner has asserted that the Amano et al. '173 reference teaches a multi-layer test strip comprising a water impermeable light transmissive hydrophilic support, a reagent layer and a porous spreading layer. A refers to column 3, lines 45 through column 4. The Examiner further comments about the teachings with regard to the spreading layer of having a void volume of 13 to 15 micrometer per square centimeter. This is in fact correct, that is to say, the Amano et al. '173 reference teaches the traditional type of dry analytical element which requires a water impermeable light transmissive support, a reagent layer and a porous spreading layer. However, the device presently claims no spreading layer. The traditional dry analytical element was spun by the development of the spreading layer which keeps the measuring stability by spreading components contained in a sample supplied to the dry analytical element flatly to feed them to the layer underneath at a roughly constant rate per unit area without a substantially uneven distribution (see page 2, lines 22-page 3, line 3 of the present specification). Thus the spreading layer is the most significant layer of the traditional dry analytical element.

This contrast completely to the dry analytical element recited in the claims of the present application, wherein there is no spreading layer (see page 3, lines 18-27 of the present specification). Rather, it utilizes something other than a spreading layer which is the compartment defined by the frame body as a measure (see page 9, lines 18-20 of the specification). There is a clear difference between the framed body required by claim 14 and

the spreading layer which is required by the Amano et al. '173 patent. Clearly, Amano fails as an anticipatory reference to the claims as they stand.

Moreover, there is certainly nothing in Amano et al. which suggests that one can arbitrarily do away with the required spreading layer specifically taught in this reference. One skilled in the art reading the Amano et al. '173 reference would find no reason to avoid the use of a spreading layer and expect to receive the results depicted in Amano et al. Accordingly, this rejection is unattainably and should be withdrawn.

The case of in re Dailey, 149 U.S.P.Q. 47 is not relevant in this instance, Applicants are not relying on the configuration in and of itself for patentability. Rather, it is the fact that the presently claimed element does not require the spreading layer of the prior art that renders the claims patentable.

In view of the foregoing, it is submitted that this application is in condition for allowance and favorably reconsideration and a prompt Notice of Allowance are earnestly solicited.

Respectfully submitted,

Dated December 16, 2005

By_____

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